

INFORMATION FOR ACCOUNTS INTERESTED IN "STORE-IN-A-STORE"

Although the Judge in Greensboro has put a stay on any of the proposed FDA regulations related to restricted access and denied any jurisdiction over advertising and promotion there is still the possibility that the FDA will eventually gain regulatory authority over access (self-service versus non-self-service, etc.) even though 8/28/97 is no longer the implementation date.

Based on the potential that this authority could at some point become enacted due to a lifting of "the stay" or appeals that are heard we still feel it worth your time to speak your opinion on why you need to have the ability to compete with a store-in-a-store format.

- Proposed FDA regulations (that are on hold via a "stay") permits self-service displays "in facilities where the retailer insures that no person younger than 18 years of age is present, or permitted to enter, at any time."
- The FDA has indicated that it did not intend for "store within a store" to be allowed by the regulations as written, but that it will accept additional information and/or opinions on the "store-in-a-store" concept.
- The FDA may be interested in the following information:
 - a) Do you currently have a "store-in-a-store"?
 - b) If so, what does it look like? Where is it located? How is departmentalization achieved (e.g. floor to ceiling walls versus panels that don't reach ceiling?)
 - c) How are you proposing to limit access to persons under 18 in your "store-in-a-store" (e.g. attendant at door; locked door; opaque windows and doors; etc.)?

If you would like to express your views on the "store-in-a-store" concept you can call your trade association or Judy Wilkenfeld at the FDA at (301) 827-0933 (phone); (301) 443-5169 (fax). If Ms. Wilkenfeld is not available, you can ask to be transferred to Mr. Mitch Zeller.

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Key Points - Ruling on Summary Judgment

- A. Ruled that the FDA does not have the Authority to regulate tobacco advertising and promotion.
- B. Ruled that the FDA regulations which went into effect on February 28, 1997, prohibiting the sale of tobacco products to minors would remain in effect pending appeal.
- C. Let stand FDA access restriction regulations and package label regulations, but ruled that the FDA cannot implement any regulations scheduled to go into effect on August 28, 1997 (*including access restrictions and package label regulations*) pending further order by the court.
- D. Cigarette manufacturers have filed a petition to appeal and expect that the FDA will also appeal shortly. The appeals process could take years and ultimately may result in a trial on the issue of whether the FDA has jurisdiction over cigarettes as customarily marketed.

¹ Access restrictions scheduled to go into effect on August 28, 1997, were defined as follows: *"The access restrictionsprohibit the sale of tobacco products through vending machines and self-service displays except in facilities where individuals under the age of 18 are not permitted, prohibit distribution of free samples, and prohibit the sale of cigarette packages containing fewer than 20 cigarettes."*

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SIAS CHAIN CONTACTS FOR FDA FOLLOW-UP

JOHN BARNHARDT

JR. FOOD MARTS-JACKSON,MS.(McCARTY)
FOOD LION
LIL CHAMP
INGLE'S

MIKE BUCKLER

DIAMOND SHAMROCK
QUIK CHEK
ENGLEFIELD OIL
KROGER-LOUISVILLE

BRYAN STOCKDALE

EMRO
LOVE'S
SHEETZ

BILL DUFFY

FAMILY EXPRESS
GRANDPA PIGEONS
DELTA MAPCO
K MART
KROGER-MEMPHIS

RICH PETTORINI

HEB
SAFEWAY-N.CAL.
PLAID PANTRY
QUICK STOP(PAT O'MARA)

JIM PERRY

GIANT FOOD
UNI-MART
HESS
CUMBERLAND FARMS

THE "GAME PLAN":

- 1 SUZANNE WILL REVISE SIAS SCRIPT AND FORWARD TO US.
- 2 WE WILL WAIT FOR SUMMARY JUDGMENT PRIOR TO CHAIN CONTACT.
- 3 BKS TO ALERT ALL OF US ON "GO" DATE.
- 4 AFTER BKS ALERT, EACH OF US WILL CONTACT THE RJR ACCT. PERSON RESPONSIBLE FOR THE CHAIN BY PHONE AND TALK THEM THROUGH THE SIAS SCRIPT SO THAT THEY CAN FOLLOW-UP WITH THE CHAIN.
- 5 I RECOMMEND FAXING THE SCRIPT PRIOR TO PHONE CALL.

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